

JOSEPH A. LIEBMAN
Nevada Bar No. 10125
JAROD B. PENNIMAN
Nevada Bar No. 16299
BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
Telephone: 702.562.8820
Facsimile: 702.562.8821
JLiebman@BaileyKennedy.com
JPenniman@BaileyKennedy.com

XAVIER M. BAILLIARD
(*ADMITTED PRO HAC VICE*)
MARISA RAUCHWAY
(*ADMITTED PRO HAC VICE*)
CHIESA SHAHINIAN & GIAN TOMASI PC
105 Eisenhower Parkway
Roseland, New Jersey 07068
Telephone: 973.325.1500
xbailliard@csglaw.com
mrauchway@csglaw.com

*Attorneys for Defendant/Counterclaim Plaintiff
DMD Chicken, LLC; and Defendants Frederick
Burgess and Jack Flechner*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BC LICENSING, LLC, a Nevada limited liability
company,

Plaintiff,

vs.

DMD CHICKEN, LLC, a Florida limited liability
company; FREDERICK BURGESS, an
individual; and JACK FLECHNER, an
individual,

Defendants.

DMD CHICKEN, LLC, a Florida limited liability
company; FREDERICK BURGESS, an
individual; and JACK FLECHNER, an
individual,

Counterclaim Plaintiffs,

vs.

Case No. 2:25-cv-00453-JAD-NJK

**STIPULATION AND ORDER TO SET
NEW MOTION BRIEFING SCHEDULE
DUE TO FILING OF AMENDED
COUNTERCLAIM [ECF 44]**

(FIRST REQUEST)

ECF Nos. 32, 34, 36

BC LICENSING, LLC, a Nevada limited liability company; BCIP, LLC, a Nevada limited liability company; JRS HOSPITALITY, LLC, a Nevada limited liability company; PERRY ROGERS, an individual; SHAQUILLE O'NEAL, an individual; COREY JENKINS, an individual; JOSHUA HALPERN, an individual; MATTHEW SILVERMAN, an individual; SAMUEL STANOVICH, an individual; and MATTHEW PIEKARSKI, an individual,

Counterclaim Defendants.

STIPULATION AND ORDER TO SET NEW MOTION BRIEFING SCHEDULE DUE TO FILING OF AMENDED COUNTERCLAIM [ECF NO. 44]

Defendants/Counterclaim Plaintiffs DMD CHICKEN, LLC ("DMD"), FREDERIC BURGESS ("Burgess") AND JACK FLECHNER ("Flechner"), and Counterclaim Defendants BC LICENSING, LLC ("BC Licensing"); BCIP, LLC ("BCIP"); JRS HOSPITALITY, LLC ("JRS"); PERRY ROGERS ("Rogers"); SHAQUILLE O'NEAL ("O'Neal"); COREY JENKINS ("Jenkins"); JOSHUA HALPERN ("Halpern"); MATTHEW SILVERMAN ("Silverman"); and SAMUEL STANOVICH ("Stanovich") (collectively, the "Counterclaim Defendants"), by and through their respective counsel of record, hereby stipulate and agree as follows:

1. On April 30, 2025, BC Licensing, BCIP, Halpern, Silverman, and Stanovich filed their Motion to Dismiss DMD's Counterclaims [ECF No. 32] (the "BC Licensing Motion").

2. On April 30, 2025, O'Neal and JRS filed their Motion to Dismiss DMD's Counterclaims [ECF No. 34] (the "JRS Motion") (along with the BC Licensing Motion, the "Motions").

3. On May 2, 2025, Jenkins and Rogers filed their Joinder to the BC Licensing Motion [ECF No. 37].

4. On May 5, 2025, the Court set the Motions for hearing on June 3, 2025, at 1:30 p.m. [ECF No. 38].

5. On March 12, 2025, the Court granted a Stipulation and Order to extend the Opposition deadline to the Motions to May 30, 2025, and to reset the hearing on the Motions to July 7, 2025, at 1:30 p.m.

6. On May 21, 2025, Counterclaim Plaintiffs DMD, Burgess, and Flechner filed an Amended Counterclaim against the Counterclaim Defendants, along with one additional counterclaim defendant Matthew Piekarski [ECF No. 44] (the “Amended Counterclaim”). The Amended Counterclaim was filed as a matter of course under FRCP 15(a)(1)(B).

7. “The filing of an amended complaint generally moots a pending motion to dismiss unless the amended complaint is substantially identical to the original complaint.” *Zimmerman v. PeaceHealth*, 701 F.Supp.3d 1099, 1108 (W.D. Wash. 2023). Although the Parties disagree whether the Amended Counterclaim is substantially identical to DMD’s original Counterclaim, and “defendants should not be required to file a new motion to dismiss simply because an amended pleading was introduced while their motion was pending,” *id.* (internal quotation marks and citation omitted), Counterclaim Defendants agree to re-file their Motions and Joinder based on the Amended Counterclaim.

8. Counterclaim Defendants will file their Motions to Dismiss the Amended Counterclaim on or before Monday June 9, 2025. Counterclaimants will file their Opposition on or before June 23, 2025. Counterclaim Defendants will file their Reply on or before June 30, 2025.

9. This briefing schedule will not impact the current hearing of the Motions on July 7, 2025.

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10. This stipulation is made in good faith and not to delay the proceedings.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED this 29th day of May, 2025.

DATED this 29th day of May, 2025.

BAILEY ♦ KENNEDY

GREENBERG TRAURIG, LLP

By: /s/ Joseph A. Liebman

By: /s/ Akke Levin

JOSEPH A. LIEBMAN
JAROD B. PENNIMAN

MARK E. FERRARIO, ESQ.

Nevada Bar No. 01625

AKKE LEVIN, ESQ.

Nevada Bar No. 09102

10845 Griffith Peak Drive, Suite 600

Las Vegas, Nevada 89135

**CHIESA SHAHINIAN
& GANTOMASI PC**

XAVIER M. BAILLIARD

(ADMITTED PRO HAC VICE)

MARISA RAUCHWAY

(ADMITTED PRO HAC VICE)

*Attorneys for Counterclaim Defendants BC
Licensing, LLC; Shaquille O'Neal; and JRS
Hospitality, LLC*

*Attorneys for Defendants/Counterclaim
Plaintiffs DMD Chicken, LLC, Frederick
Burgess and Jack Flechner*

DATED this 29th day of May, 2025.

**GORDON REES SCULLY
MANSUKHANI, LLP**

By: /s/ Bradley G. Taylor

BRADLEY G. TAYLOR, ESQ.

Nevada Bar No. 13778

300 So. 4th Street, Suite 1550

Las Vegas, Nevada 89101

*Attorneys for Counterclaim Defendants BC
Licensing, LLC; BCIP, LLC; Joshua Halpern;
Matthew Silverman; Samuel Stanovich; Corey
Jenkins; and Perry Rogers*

ORDER

Based on the parties' stipulation [ECF No. 46] and with good cause appearing, IT IS SO ORDERED. IT IS FURTHER ORDERED that the motions to dismiss the now-superseded counterclaims [ECF Nos. 32, 34] are **DENIED as moot**. The motions to dismiss the amended counterclaim will be heard at the already scheduled July 7, 2025, hearing.


U.S. District Judge Jennifer A. Dorsey

Dated: May 30, 2025